

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**BOARD OF ZONING ADJUSTMENT**



Application No. 13778, of Gayle G. Van Natta and Florence P. Hohenstein, pursuant to Sub-section 8207.2 of the Zoning Regulations, for special exceptions under Paragraph 3105.48 to permit a subdivision and construction of a 300 bed health-care facility and under Sub-section 7205.3 to permit parking in front of a building and within the courts in an R-5-A District at the premises 2425 - 25th Street, S.E., (Square 5740, Parcels 220/43 and 220/50).

HEARING DATE: May 19, 1982  
DECISION DATE: June 2, 1982

FINDINGS OF FACT:

1. The subject property is located in an R-5-A District on the west side of 25th Street, S.E. south of Wagner Street, S.E. and north of Ainger Place, S.E.
2. The site is unimproved, irregularly shaped and slopes down to the west. It contains approximately 193,429 square feet or 4.4405 acres. The only street frontage is approximately ninety-eight feet on 25th Street, S.E.
3. The property surrounding the site is zoned R-5-A. Across 25th Street to the east is a public elementary school and playground, occupied in part by a water tower. Immediately east of and adjacent to the site are six parcels which front on the west side of 25th Street. The parcel immediately north of the driveway to the subject site is improved with a single frame house. North of that house is a vacant lot of approximately 10,000 square feet. South of the driveway are four parcels improved with two small apartment houses. North and northwest of the site are single family dwellings which front on Wagner Street and Skyland Place. South and southwest of the site are parking areas for adjoining garden apartment developments.
4. The application requests approval for the construction of a 300-bed health care facility, with thirty skilled care nursing beds and 270 intermediate care beds. The building will be three stories high and cover approximately 38,835 square feet or twenty percent of the site. The floor area ratio will be less than the permitted 0.9.

5. The building as proposed will have an average rear yard of 119 feet and average side yards of thirty-four feet and fifty-two feet.

6. The proposed facility is a health care facility as defined in the Zoning Regulations. Its capacity will not exceed 300 persons not including resident supervisors and their families.

7. There is no community based residential facility for five or more persons within the same square and within a radius of 500 feet from any portion of the subject property.

8. The facility will have ninety-nine off-street parking spaces, including sixty-five spaces for employees, twenty-five spaces for visitors, four spaces for physicians, and five spaces for handicapped persons. The employee parking will be located to the west and south of the building. The visitor parking spaces will be on the north side of the building, except for three spaces which will be to the east of the building across from the main entrance to the building. The spaces for physicians and handicapped persons will be located in the two courts on both sides of the building's main entrance, except for one space for handicapped persons located across the driveway from the building's main entrance.

9. A Certificate of Need for the proposed health care facility has been issued by the District of Columbia Department of Human Services. All code and licensing requirements either have been met or on completion of the facility will be met.

10. The applicant's expert traffic witness testified that the facility will not have an adverse impact on the neighborhood because of traffic. The site is well served by public transportation with seven bus lines operating within 1000 feet of the site. The occupants of the facility will not own or operate cars and will not generate any traffic. The employees of the facility will number approximately 163 during any twenty-four hour period. They will work on eight hour shifts which do not coincide with normal peak travel times. The shifts will be from 6:30 A.M. to 2:30 P.M., from 2:30 P.M. to 10:30 P.M. and from 10:30 P.M. to 6:30 A.M. It is anticipated that thirty percent of the total number of employees will drive to work. The peak accumulation of staff vehicles on the site at any one time is not expected to exceed thirty-seven. Visiting hours are to be from noon until 8:00 P.M. Monday through Friday and from 10:00 A.M. to 8:00 P.M. on Saturday and Sunday. Visitors to the site are not expected to exceed thirty during any one day. A maximum of fifteen volunteers per day at the facility is expected. The shift changes do not coincide with the arrival or dismissal of students at Stanton Public School. The Board

concurs with the findings and conclusions of the traffic expert.

11. The facility will not have an adverse impact on the neighborhood because of noise or operations. The service area is located at the rear of the building at the basement level. It is not visible from the front of the building. It is so located that the landscaping and screening at the rear of the site will minimize potential adverse impacts due to noise. The planting and screening will further prevent objectionable noise or light from emanating from the parking areas. The building is further set back sufficient distances from the sides and rear of the lot that any adverse effects from noise or operations are mitigated.

12. There are no similar facilities in this area. The closest health care facilities are at Greater Southeast Community Hospital and proposed for the Marshall Heights area in Northeast, both of which are a considerable distance away.

13. The applicant must meet the requirements of the D.C. Department of Environmental Services regarding sedimentation and erosion control during construction and storm water runoff after construction. The uncontrolled storm water runoff after the site is developed will be less than the runoff at present because of the installation of storm sewers, catch basins and a storm water management pond as shown on Exhibit No. 44A of the record. Those storm water runoff features have been approved by the Department of Environmental Services, as indicated in material from the Department marked as Exhibit No. 58 of the record.

14. The lot is unusually shaped. Given the configuration of the property and the location of entrances to the building, it is impracticable to locate parking spaces for handicapped persons and doctors in a location other than in the courts in front of the building. Such a location is near the main entrance, convenient for persons who need direct access to the building.

15. The application was referred as required by the Zoning Regulations to the Assistant City Administrator for Planning and Development.

16. The Office of Planning and Development, by memorandum dated May 14, 1982 and by testimony at the hearing, recommended approval of the application. The OPD reported that this application complies with the requirements of Paragraph 3105.48, and that the requested special exception for parking spaces in front of the building for physicians, handicapped persons and visitors should be granted, since it is necessary to locate those spaces

there in order to give the physicians and handicapped persons convenient access to the building. The OPD concluded that both special exceptions will be in harmony with the general purpose and intent of the Zoning Regulations. The OPD was of the opinion that the proposed facility will be of substantial public benefit to the residents of the community and will not impair the intent, purpose and integrity of the Zoning Regulations. The Board concurs with the findings and recommendation of the OPD.

17. In its memorandum of May 14, 1982, the OPD noted that several agencies of the District of Columbia Government had considered the application and reported as follows:

- A. The Department of Human Service, State Health Planning and Development Office indicated that the proposed health care facility has a Certificate of Need, and has demonstrated the intention of complying with all code and licensing requirements. The DHS further advised that there are many patients in hospitals awaiting nursing home placement.
- B. The Department of Environmental Services, Bureau of Design and Engineering indicated that upon approval of the erosion and sedimentation control plan, a water and sewer availability certificate will be issued for the project.
- C. The Department of Housing and Community Development supported the construction of a 300-bed health care facility on unimproved land at 25th and Wagner Streets, S.E., Washington, D.C. The Department is presently involved in improving the neighborhood in which this facility will be located, and felt that the presence of a new health care facility will enhance those efforts. This facility will not only eliminate an unimproved site, but provide approximately 300 permanent jobs to members of the community, as well as 200 to 300 construction jobs.
- D. The OPD staff contacted the Seventh District Community Services Office of the Metropolitan Police Department to ascertain whether or not the proposed facility will impact adversely on the normal police services to the subject neighborhood. The OPD was informed that the Police Department will be able to service the facility without any measurable impact on its operations.
- E. The Program and Planning and Management Office of the Fire Department advised that any new facility

of this type constructed in the District of Columbia is required by code to install fire safety equipment such as fire doors and sprinklers, and that the proposed facility will not effect the operations of the Department. The Department noted that the new facility would be inspected on a regular basis during and after construction for compliance with the fire code.

18. The D.C. Department of Transportation, by memorandum dated May 18, 1982, estimated that the maximum number of employees on site at one time would be ninety-five. The DOT further noted that the pattern of arrival and departure spreads from 6:00 A.M. to 9:00 A.M. and 2:30 P.M. to 4:30 P.M. respectively. Ninety percent of the employees will arrive by 8:00 A.M. and ninety-five percent of the employees will depart by 4:30 P.M. The peak operation of the external streets in the vicinity of the site occurs between 8:00 and 9:00 in the morning and 4:45 and 5:45 in the evening. The DOT therefore, concluded that most of the vehicular trips to and from the site will not occur during the peak operation of the external streets in the vicinity of the site. The DOT also examined the proposal with regard to vehicular and pedestrian conflict between the proposed nursing home and the operation of the existing Stanton Elementary School. The DOT noted that the main entrance to the school is on Naylor Road, while access to the proposed development is off 25th Street. The DOT analysis indicated little or no conflict between the operation of the two facilities. The DOT did not anticipate that measurable adverse impact will be imposed by this development on the surrounding street system in the area. The Board concurs with the findings of the DOT.

19. The application received the support of the Greater Washington Central Labor Council, several owners of surrounding property, church leaders and the Commissioner on Aging from Ward 8. The positive effects of the facility cited by those in support included the increased health care services for the elderly and new employment opportunities.

20. Advisory Neighborhood Commission 6C, the ANC within which the property is located, by the written statement of its Chairman submitted at the hearing, opposed the application. The ANC Chairman raised the following issues and concerns:

- a. Because of the three story height of the building and its location on top of a hill, the building will dwarf the existing houses in the area.
- b. The proposed development has the potential of increasing crime in what is now a low crime area.

- c. The houses in the area have had problems with erosion and storm water runoff from the subject property. The construction of the proposed facility will not improve the situation and may worsen it.
- d. The proposed facility may lead to the devaluation of surrounding homes.
- e. A building of the size proposed would lead to an increasing number of brown-outs and black-outs because of increased usage of electricity.
- f. During the period of construction, the area would be disrupted by heavy machinery.
- g. The developer of the facility did not meet with the community for three years between 1978 and 1981, and the planning for the facility was done without significant neighborhood input.

The ANC did not hold a formal public meeting to determine its position. The Chairman of the ANC conducted a telephone poll. Out of eleven Commissioners, he reached seven and all favored the position stated by the Chairman.

21. Advisory Neighborhood Commission 8B, whose area includes property located one block from the subject site, by written statement dated May 19, 1982, requested that the application be denied. The ANC raised the following issues and concerns:

- a. The beds at the proposed facility do not address the need for nursing home beds which is for specialized care.
- b. The proposed nursing home would disrupt the tranquility of the community, create traffic congestion and create dangerous conditions for children at the Stanton Elementary School.
- c. The site is too small for the proposed facility. Larger sites are available.

22. The application was opposed by many residents of the homes on Wagner Street, Skyland Place and 24th Street, as well as by the Skyland Park Citizens Association, the Frederick Douglas Community Improvement Council and the Skyland Complex Tenants Association. In addition to the issues and concerns noted by the two ANC's, the opposition also raised the following issues:

- a. The building would tower over the rear yards of adjoining houses, and would result in the loss of

privacy in the rear yards of those homes.

- b. If the use of the building as a health care facility is not financially viable, the building could be used for other uses which might adversely impact the area even further.
- c. The pile-driving necessary to support the building would adversely effect the adjoining homes.
- d. Inadequate provisions had been made to improve the existing erosion and water runoff conditions.

23. In addressing the issues and concerns raised by the ANC's and other persons in opposition, the Board finds as follows:

- a. The building has been set in the center of the site, well removed from surrounding lot lines. The yards provided far exceed those required by the Zoning Regulations. The height of the building is below the normal permitted height of forty feet, and is typical of the heights of other buildings and structures in the area. Further, the landscaping and screening as proposed, and as to be required by the Board, will help to reduce loss of privacy.
- b. The allegations as to increased crime are not supported by any probative or reliable evidence.
- c. The testimony of the applicant's engineer as well as the report from the Department of Environmental Services indicate that adequate provisions have been made to prevent erosion, and that storm water run-off conditions will be improved by the development of the site as proposed.
- d. The allegations as to decreasing property values are not supported by any probative or reliable evidence. To the contrary, the applicant presented a real estate expert who testified that property values of homes adjacent to other health care facilities or housing for the elderly have not been adversely effected.
- e. The availability of electrical service is not a proper matter for the Board to consider. Residents must pursue that issue with the public utility and proper regulatory authorities.
- f. The potential for adverse effects during construction on the site are inherent in any

development of the property. Health care facility construction is not likely to be any worse than construction of apartment houses or other permitted uses.

- g. While the Board is appreciative of applicants who met with community groups and fully involve affected individuals in their design and planning processes, there is no requirement in the Regulations for such involvement or community consultation.
- h. The proposed facility has a certificate of need from the State Health Planning and Development Agency.
- i. The applicant's traffic expert and the report of the D.C. Department of Transportation establish that no adverse traffic congestion or effect on the Stanton Elementary School will occur.
- j. The site is not too small for the proposed development. The building is well under the maximum gross floor and lot occupancy allowed. More than required setbacks are provided. Sufficient parking is included.
- k. The Board's approval is requested and granted only for a health care facility. Any other use of the property could only be for a use permitted as a matter-of-right under the Zoning Regulations. Further BZA review would be required to convert the building to apartments or some other kind of community based residential facility.

24. Use of the subject property as a health care facility is likely to be substantially less objectionable than other uses permitted in an R-5-A District. For a site of this size, approximately 100 rowhouses or 150 to 200 apartment units would be permitted. A development of that magnitude would likely cause greater site disturbance, more traffic and a cumulatively greater impact than the subject proposal.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing findings of fact and the evidence of record, the Board concludes that the application requests two special exceptions. In order to be granted the requested special exceptions, the applicant must demonstrate compliance with Paragraph 3105.48 and Sub-section 7205.3 and Sub-section 8207.2 of the Zoning Regulations. The Board concludes that compliance has been demonstrated. The proposed facility will not exceed 300 beds and there are no



other community based residential facilities in the subject square or within a radius of 500 feet from any portion of the subject property. Off-street parking will be adequate, appropriately located and screened and will meet the needs of the occupants, employees and visitors to the facility. The proposed facility will meet all applicable code and licensing requirements and will not have an adverse impact on the neighborhood because of traffic, noise, operations or the number of similar facilities in the area.

The Board further concludes that the approval of the special exception under Paragraph 3105.48 will be in harmony with the general purpose and intent of the Zoning Regulations and Maps and will not tend to affect adversely the use of neighboring property in accordance with said regulations and map.

As to the special exception under Paragraph 7205.3 for parking in front of the building, the location of the spaces in front of the building is necessary in order to give physicians, handicapped persons and certain visitors easy access to the building. Because of the shape, grade and size of the site and the desire to maintain parking areas as far from the adjacent property to the north as possible, it is not practicable to locate these spaces elsewhere. The Board concludes that the approval of the parking spaces in front of the building will be in harmony with the general purpose and intent of the Zoning Regulations.

The Board notes that since ANC 6C did not hold a meeting to consider the application preceding the filing of a written statement by its Chairman, as required by Section 1.261(d) of the D.C. Code, the Board may not be required to give "great weight" to the issues and concerns of the ANC. The Board notes that the law is further unclear as to whether the Board must give "great weight" to the issues and concerns of an ANC other than the one wherein the property is located. The Board concludes that it has met all legal requirements with regard to ANC issues by addressing them directly in the findings of fact contained in this Order.

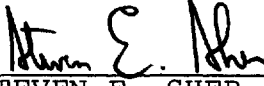
Accordingly, it is therefore hereby ORDERED that the application be GRANTED SUBJECT to the following CONDITIONS:

1. The facility shall be constructed in accordance with the plans marked as Exhibit Nos. 2 and 44A of the record, except as those plans are modified by the other conditions set forth herein.
2. There shall be a maximum of 300 beds in the facility.
3. The site shall be landscaped in accordance with the plan marked as Exhibit No. 44E of the record.

4. The site shall be fenced as shown on the landscape plan marked as Exhibit No. 44E of the record. Fencing shall be either eight foot high or six foot high chain link fence, as indicated, with green vinyl diagonal strips inserted in the fence so as to make the fence generally opaque.
5. Erosion and sediment control measures during and after construction shall be as required by the D.C. Department of Environmental Services.
6. There shall be a walkway, with a minimum width of three feet, completely around the building leading from the parking areas to the entrances to the building, to insure pedestrian safety.
7. Vehiccular access shall be limited to 25th Street.
8. All regularly scheduled deliveries and service vehicles, including trash pick-up, shall arrive and depart only between the hours of 10 A.M. and 2 P.M.
9. The applicant shall meet all relevant licensing requirements of the District of Columbia.

VOTE: 3-0 (Walter B. Lewis, Connie Fortune and Charles R. Norris to GRANT; William F. McIntosh and Douglas J. Patton not voting, not having heard the case).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:   
STEVEN E. SHER  
Executive Director

FINAL DATE OF ORDER: JUN - 3 1982

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF LICENSES, INVESTIGATIONS AND INSPECTIONS.